

1638

Please type a plus sign (+) inside this box →

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number

09/828,068

Filing Date

April 6, 2001

First Named Inventor

Moon, Yong-Hwan

RECEIVED

OCT 30 2002

Group Art Unit

1638

Examiner Name

Stuart Baum

TECH CENTER 1600/2900

Total Number of Pages in This Submission

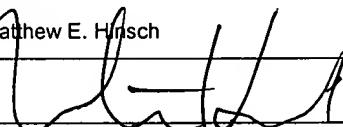
Attorney Docket Number

018941-001400US

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Return Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s)	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		Remarks
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Townsend and Townsend and Crew LLP Matthew E. Hirsch	
Signature		
Date	Reg. No. 47,651 October 21, 2002	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date:

October 21, 2002

Typed or printed name	Joy M. Marshall		
Signature		Date	October 21, 2002

Burden Hour Statement: This form is ~~COMPLETE~~ FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

SF 1398056 v1



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

On October 21, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: Joy M. Marshall

PATENT
Attorney Docket No.: 018941-001400US
Client Ref. No.: B01-051

#12/e/c.
AP
10/30/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Yong-Hwan Moon et al.

Application No.: 09/828,068

Filed: April 6, 2001

For: NUCLEIC ACIDS THAT
CONTROL REPRODUCTIVE
DEVELOPMENT IN PLANTS

Examiner: Stuart Baum

Art Unit: 1638

AMENDMENT

RECEIVED

OCT 30 2002

TECH CENTER 1600/290

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed September 27, 2002, Applicants hereby elect with traverse the claims of Group I (claims 1-5, 7-10, 12-16 and 18-20).

According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. *See*, the MPEP at 803.01. In establishing that an "undue burden" would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. Applicants respectfully submit that examination of the claims in Groups I-II would not create an undue burden and respectfully request withdrawal of the restriction requirement in this case.

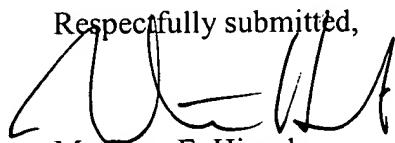
The Examiner has divided the claims into groups depending on whether the reading frame is in a sense (Group I) or antisense (Group II) orientation. There does not appear to be any reason for this restriction.

First of all, claims 1-5 do not necessarily include a promoter and therefore do not recite "sense" or "antisense" constructs. Therefore, at the least, claims 1-5 should be examined in either restriction group.

Second, introduction of either sense or antisense constructs can result in a reduction of polypeptide expression in plants. For example, sense suppression (now commonly referred to as RNA interference or RNAi) can occur when sense constructs are introduced into plants. This technology is commonly used to suppress gene expression in plants. Thus, the Examiner's assertion that the sense orientation "is used to upregulate or increase activity" is only partly true. Either type of construct can be used to suppress expression. Therefore, it is unclear why antisense constructs and uses thereof justify a different restriction group.

Third, Applicants note that in the related application (09/415,946, filed 10/08/99, now U.S. Patent No. 6,376,751, issued 04/23/02) directed to the *Arabidopsis EMF* gene sequence, the Examiner considered antisense constructs together with sense constructs during the examination of the parent application.

Accordingly, Applicants respectfully request consolidation of Groups I-II.

Respectfully submitted,

Matthew E. Hinsch
Reg. No. 47,651

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: (415) 576-0300
MEH:meh
SF 1396700 v1